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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

BRAHAN, THOMAS J

ART UNIT	PAPER NUMBER
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3654

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10/05/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/559,771

Applicant(s)

SCHMITT, GUNTER

Examiner

Thomas J. Brahan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 28-54 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 28-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. <u>7/19/06</u> |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>5/30/06 7/19/06</u> | 6) <input type="checkbox"/> Other: _____ |

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1. The drawings are objected to under 37 C.F.R. § 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the details of the structure of safety catch 48 of claim 46 (drawing figure 1 has a reference numeral 48, but it fails identify any structure which could be considered as a safety catch), the heating and cooling system of claim 50, and the balconies and skeleton of claim 51-54, must be shown, or the features must be canceled from the claims. Currently, No new matter may be entered.

2. If corrected drawing sheets are submitted to overcome the above objection, they must be in compliance with 37 CFR 1.121(d) and are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended". If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d).

3. If the changes are not accepted by the examiner, because for example introducing new matter, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. The following is a quotation of the first paragraph of 35 U.S.C. § 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 46 and 47 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The structure of the safety catch of claim 46 is not understood. There is no indication of any structures of figure 1 which would be considered as electric cables, a trigger device or a safety catch. The reference numeral 48 does not indicate the details of a safety catch. Claims 46 and 47 have not been included below in the rejections based upon prior art.

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6. The following is a quotation of the second paragraph of 35 U.S.C. § 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which applicant regards as his invention.

7. Claims 31 and 37-45 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. It is unclear as to how claim 31 can recite that the elements are in "the housing" when housings (plural) are needed.

b. Claim 37 adds a "connecting piece" into the claimed combination of elements without indicating that this piece (17) is the central portion of the vertical carrier (18). The claim reads as if these were two distinct or separate elements.

c. In claim 38 the term "subshot" is not understood. What is a subshot? The term does not appear in the online dictionaries and is found only in patents documents relating to video editing. Claims 38 and 39 have not been treated below in the rejections based upon prior art.

d. In claim 40, the term "the car-side rollers" lacks antecedent basis within the claims.

e. In claim 42, how is the applicant considering the frame profiles as extending of the height of the car?

f. In claim 42, how is the applicant considering the angular profile (9) as having a U-profile? Is this the part of the angular profile or is it something attached to the angular profile? Is this U-profile a redundant inclusion of the general U-profile recited in claim 41?

g. In claim 43, it is unclear as to how the applicant is considering the elevator as having a "protective housing that extends over the height of the car" as recited at the beginning of the claim as well as having a "passage for the leg of the angular profile" as recited later in the claim. Hood (39) appears to be the only housing over the car, while protective housings (42) are associated with the angular profile (9). How is applicant using the term "over the height of the car"?

h. Also in claim 43, the limitation "the protective housing including a passage for the legs of the angular profile, the passage being allocated to one of the corresponding frame profiles and passing through a slot of one of the first housings". How is the passage considered as for legs (plural) of one angular profile? How is the applicant considering the passage as passing through a slot in the first housing? I.e. how can a passage in what is probably in housing 42 pass through a slot in a different housing? Also in claim 43, how is the applicant considering one protective housing as arranged on both sides of the car, as recited at the end of the claim?

i. Claim 44 is not understood. How does a protective housing pass through a slot of the housing?

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 28-30, 32, 35-37 and 48, 51-54, as best understood, are rejected under 35 U.S.C. § 102(b) as being anticipated by Allred. Allred shows an elevator with a cable-driven car (platform supporting portion 17), to which vertical guide rails (rails 12) are attached, comprising a plurality of cables (cables 25) that are arranged on two sides of the car, each cable in one of a plurality of first housings (weight guides 14), wherein the cables are acted upon by a common driving wheel (motor connected sheave 36).

The cables comprise a first cable (25) and a second cable (25) coupled on respective sides of the car (17), each cable being coupled to the car (17) and to a counterweight (counter weights 24), as recited in claim 29. Allred has a plurality of vertical carriers (I-beams 13), wherein the counterweight (24) and the car (17) are located on opposite sides of one of the vertical carriers (13) holding the guide rails (12), as recited in claim 30. Machine room floor (15) is considered as a girder provided on the upper ends of the vertical carriers (13) for supporting the driving wheel (36), and deflection rollers (27), as recited in claim 32. The lowest portion of the elevator opening (10) has a portion which would be considered as a shaft pit, as recited in claim 35. The vertical carriers (13) are connected to each other by crossbars, at the deck of each floor, as recited in claim 36, and are I-beams, as to have a central connecting portion, as claim 37 is best understood. Allred has a hood, roof (8) over the driving wheel (36) and deflection pulleys (27), as recited in claim 48. The floor areas of each level of the garage are considered as balconies connected to the vertical carriers (I-beams 13), as recited in claims 51-54.

11. Claims 31 and 40-45, as best understood, are rejected under 35 U.S.C. § 103(a) as being unpatentable over Allred in view of Crump. Allred shows the basic claimed elevator, as detailed above, but varies from claim 31 by not having the I-beam (13) in a housing and varies from claim 40 as the car does not move along the rail via rollers. Crump shows an elevator system with bearing rollers (98 and 104) with the rollers encased in a protective box beam (96). It would have been obvious to one of ordinary skill in the art at the time the invention was made by applicant to modify the elevator of Allred by providing rollers between the rails (12) and the car, for smoother travel, with the rollers and the vertical carriers in box beams, for protection, as taught by Crump. The rollers of Crump have a U-shaped profile as part of tongue (110), see the U-shaped central portion adjacent the slot in drawing figure 9, as

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recited in claims 41 and 42, as best understood, and have a protective housing, as claim 43 is best understood. The housing of Crump has a V-shaped seal, at opening 92, see figure 12, as claims 44 and 45 are best understood.


12. Claims 33 and 34 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Allred. Providing the motor of Allred with conventional motor gearing and control electronics, as recited in claims 33 and 34, would have been an obvious design expedient, i.e., it would not have been beyond the limits of one of ordinary skill in the art at the time the invention was made by applicant.

13. Claim 49 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Allred in view of Lindquist. Allred shows the basic claimed elevator, as detailed above, but varies from claim 49 as the counterweight does not have a tension weight. Lindquist shows a similar elevator with counterweight (W) having a tension roller (16) and a safety governor. It would have been obvious to one of ordinary skill in the art at the time the invention was made by applicant to modify the elevator of Allred by providing the counterweight with a tension roller and safety governor, to stop the car in over speed situations, as taught by Linquist.

14. Claim 50 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Allred in view of Verner. Allred shows the basic claimed elevator, as detailed above, but varies from claim 50 by not having a heating and cooling unit. Verner shows an elevator with heating and cooling section (34) connected to the elevator car (25). It would have been obvious to one of ordinary skill in the art at the time the invention was made by applicant to modify the elevator of Allred by connecting the car to a heating and cooling system, for climate control, as taught by Verner

15. Only those reference citations which included a complete copy of the document were considered.

16. An inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Brahan whose telephone number is (571) 272-6921. The examiner's supervisor, Mr. Peter Cuomo, can be reached at (571) 272-6856. The fax number for all patent applications is (571) 273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Questions regarding access to the Private PAIR system, should be directed to the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Thomas J. Brahan
Primary Examiner
Art Unit 3654